DEPARTMENT OF HEALTH & HUMAN SERVICES

Food and Drug Administration
Rockville MD 20857

SEP 29 2009

Re: Vimpat
Docket Nos. FDA-2009-E-0172
FDA-2009-E-0173
FDA-2009-E-0174
FDA-2009-E-0175

The Honorable David J. Kappos
Under Secretary of Commerce for Intellectual Property
Director of the United States Patent and Trademark Office
Mail Stop Hatch-Waxman PTE
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Director Kappos:

This is in regard to the applications for patent term extension for U.S. Patent Nos. 5,654,301 and RE38,551 filed by Research Corporation Technologies, Inc., under 35 U.S.C. § 156. The human drug product claimed by the patents is Vimpat (lacosamide), which was assigned new drug application (NDA) Nos. 22-253 and 22-254.

A review of the Food and Drug Administration's official records indicates that this product was subject to a regulatory review period before its commercial marketing or use, as required under 35 U.S.C. § 156(a)(4). Our records also indicate that it represents the first permitted commercial marketing or use of the product, as defined under 35 U.S.C. § 156(f)(1).

The NDAs were approved on October 28, 2008, which makes the submission of the patent term extension applications on December 23, 2008, timely within the meaning of 35 U.S.C. § 156(d)(1).

Should you conclude that the subject patents are eligible for patent term extension, please advise us accordingly. As required by 35 U.S.C. § 156(d)(2)(A) we will then determine the applicable regulatory review periods, publish the determination in the *Federal Register*, and notify you of our determination.

Please let me know if we can be of further assistance.

Sincerely yours,

Jane A. Axelrad

Jane A. Axelrad
Associate Director for Policy
Center for Drug Evaluation and Research

cc: Kevin G. Shaw
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